

ORAL ARGUMENT NOT YET SCHEDULED**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

AMERICAN CHEMISTRY COUNCIL,)	
AMERICAN FUEL &)	
PETROCHEMICAL MANUFACTURERS)	Case No. 23-1203
<i>Petitioners,</i>)	Consolidated with:
)	
v.)	23-1157, 23-1181, 23-1183,
)	23-1190, 23-1191, 23-1193,
)	23-1195, 23-1199, 23-1200,
U.S. ENVIRONMENTAL PROTECTION)	23-1201, 23-1202, 23-1205,
AGENCY)	23-1206, 23-1207, 23-1208,
<u><i>Respondent.</i></u>)	23-1209, 23-1211

**NONBINDING STATEMENT OF ISSUES OF PETITIONERS AMERICAN
CHEMISTRY COUNCIL AND AMERICAN FUEL & PETROCHEMICAL
MANUFACTURERS**

Pursuant to this Court's order dated August 7, 2023, Petitioners American Chemistry Council and American Fuel & Petrochemical Manufacturers submit this preliminary and nonbinding statement of issues in this proceeding to review the final action of the United States Environmental Protection Agency (“EPA”) entitled Federal “Good Neighbor Plan” for the 2015 Ozone National Ambient Air Quality Standards, 88 Fed. Reg. 36,654 (June 5, 2023) (EPA Docket No. EPA-HQ-OAR-2021-0668):

(1) whether EPA’s decision to regulate non-EGUs, including pipeline engines, was contrary to law and arbitrary and capricious;

- (2) whether EPA's process for selecting non-EGU's was arbitrary and capricious;
- (3) whether EPA's failures to respond to requests for clarification were arbitrary and capricious;
- (4) whether EPA's regulation of pipeline engines, despite not exceeding EPA's significant contribution threshold for NOx, was contrary to law and arbitrary and capricious;
- (5) whether EPA's assessment of cost-effectiveness was contrary to law and arbitrary and capricious;
- (6) whether EPA's failure to address comments requesting company-wide, statewide emissions averaging was arbitrary and capricious;
- (7) whether EPA's failure to address comments concerning impacts on natural gas service reliability was arbitrary and capricious; and
- (8) whether EPA's choice of compliance deadline was arbitrary and capricious.

American Chemistry Council and American Fuel & Petrochemical Manufacturers reserve the right to raise any additional issues in briefs to be filed in these consolidated cases.

Respectfully submitted,

/s/ Elliott Zenick

Elliott Zenick

American Chemistry Council

700 2nd St., NE

Washington, DC 20002

(202)249-6744

elliott_zenick@americanchemistry.com

Counsel for Petitioner

American Chemistry Council

/s/ Richard S. Moskowitz

Richard S. Moskowitz

Tyler Kubik

AMERICAN FUEL & PETROCHEMICAL
MANUFACTURERS

1800 M Street, NW

Suite 900 North

Washington, DC 20036

(202) 844-5474

rmoskowitz@afpm.org

Counsel for Petitioner

American Fuel & Petrochemical

Manufacturers

Dated: September 6, 2023

CERTIFICATE OF SERVICE

I hereby certify that on 6th of September 2023, the foregoing was filed electronically using the CM/ECF System. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's CM/ECF System.

Dated: September 6, 2023

/s/ Elliott Zenick